

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

**Building Code Appeals Board
Docket No. 10-875**

<hr/>)	
Lasell College,)	
Appellant)	
)	
v.)	
)	
City of Newton,)	
Appellee)	
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BOARD'S RULING ON APPEAL

Introduction

This matter came before the State Building Code Appeals Board ("Board") on Appellant's appeal filed pursuant to G.L. c.143, §100 and 780 CMR 122.1. In accordance with 780 CMR 122.3 the Appellant petitioned the Board for variance from certain egress requirements of the 7th Edition of 780 CMR (the "Code") so that building permissible renovations can be made to the subject building.

A Hearing relative to the appeal was convened on May 6, 2010. The Appellant was represented by Jeff Perras and Kevin Hastings of the Sullivan Code Group. The City was not present for this Hearing. All witnesses were duly sworn. This Appeal sought relief from Code Section 3400.4.1.1 which requires every space and /or story to be provided with a number of means of egress no less than that required by Code Section 1018.1.

Exhibits

The following Exhibits were accepted into evidence at the hearing on this matter without objection and reviewed by the Board:

Exhibit 1: State Building Code Appeals Board appeal application form with numerous attachments, dated April 14, 2010.

Findings of Fact

The Board bases the following findings upon the exhibits identified above and the testimony presented at the hearing. There is substantial evidence to support the following findings:

1. At some point the Appellant filed for a building permit to renovate a building (Hamel House at Lasell College), 221 Woodland Road, Newton, MA.
2. On March 19, 2010, the Appellee issued a letter of noncompliance denying the application for a building permit, citing egress violations per 780 CMR, Section 1019.1

3. On April 14, 2010, the Appellant filed for a Building Code variance with the State Building Code Appeals Board seeking relief from 7th Edition, 780 CMR, Section 3400.4.1-1 and including a MEMORANDUM explaining and defending the variance request.
4. The Building Code Appeal Hearing was held on May 6, 2010 in Taunton, Massachusetts.

Code Analysis

The building at interest is an existing R-3 USE, identified as of TYPE 5B construction, with 3 stories above grade and a basement. Although the building is presently unoccupied, the Appellant seeks to change the USE of the building from R to B-USE and occupy the building accordingly.

The Building Code matters at issue relate to the fact that the Code typically requires open stairs connecting multiple floors to be enclosed and also requires two continuous means of egress from every floor.

Of the several stair systems in the building, an existing rear stair and an existing, front monumental stair are essentially open and connect the basement, first and second floors or the first and second floors, respectively.

An existing, third stair (identified as the FRONT STAIR on supporting, filed plans, which also identify the REAR STAIR and the MONUMENTAL STAIR for this Appeal) connects the second and third floors - the REAR STAIR connects the third floor to the level of exit discharge.

The Appellant, via information filed and testimony provided, testified that the REAR STAIR will be enclosed with a 1 hour rated enclosure consistent with the requirements of 3404.13 of the Code which requires, in existing buildings, that open stairways be enclosed with a minimum fire resistance rating of 1 hour, unless otherwise permitted by applicable Sections of Chapter 10 / all doors in this stair system will be fitted with self closing hardware.

Relative to the main MONUMENTAL STAIR, via reference from Code section 3404.13, Code Section 1019.1, Exception 9 allows, for such a USE, an open stair when serving only the first and second floor of the building but also requires that under such circumstances, the building be equipped throughout with an automatic fire sprinkler system complying w/the design and installation requirements of NFPA-13 / The Appellant has testified that a full NFPA 13 fire sprinkler system will be installed throughout the building so that the monumental stair can remain open - the term "throughout" is to have the meaning intended by the NFPA 13 Standard.

Relative to the FRONT STAIR connecting the second and third floors, the Appellant testified that such stair will be enclosed with 1-hour rated construction and self-closing doors, however, the intention is to allow the stair to continue to discharge into the open MONUMENTAL STAIR which is a violation of Code Section 1002.1 as this exit stair does not provide a continuous protected path of egress travel.

The Appellant sought to utilize the requirements of Code Section 1018.1 "Minimum Number of Exits" arguing that the third floor could be viewed as a space needing only one means of egress offering the observations that:

- The occupant load of the floor was calculated as 17 people and Code Table 1014.1 "Spaces With One Means of Egress" would allow up to 50 occupants in a B-USE space.
- The common path of travel from the most remote point on the third floor to the door on the stair on the second floor is less than the maximum distance of 100 ft. permitted for a fully sprinklered B-USE as set forth in Code Section 1013.3, Exception 1.
- The Appellant further argued that the third floor would be occupied by employees that are familiar with the building and would be able to quickly exit the building due to familiarity with their surroundings.

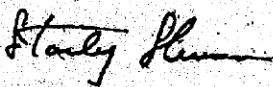
The Appellant argued that providing a smoke detection system throughout the building in accordance with the design and installation requirements of NFPA 72 – not required by the Code – (an early fire detection system, however, is identified in 780 CMR 120.S202.1.1 as a compliance alternative from floors or spaces with less than the minimum number of required exits) would be provided in lieu of having the third floor FRONT STAIR at issue continue via protected construction to the level of exit discharge – the term "throughout" means throughout the building interior but not located in any blind or interstitial spaces.

Conclusion

The Board observed that the level of life safety in the building was improving via certain stair systems being enclosed with rated construction and having stair system doors fitted with door closers and that the building would be equipped throughout with an NFPA 13 fire sprinkler system.

Finally the Board accepted the compliance alternative of smoke detection being included throughout the building for occupant early warning of fire and on this basis, a MOTION was made to allow the variances requested provided the building was equipped throughout with a smoke detection system per the requirements of NFPA 72.

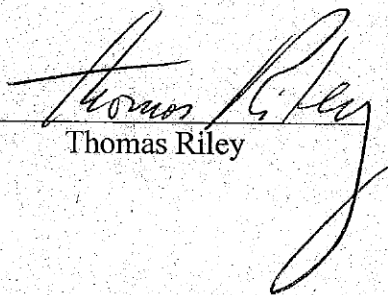
SO ORDERED.



Stanley Shuman



Jacob Nunnemacher - Chairman



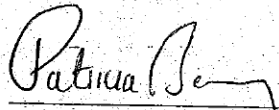
Thomas Riley

DATED: May 18, 2010

Any person aggrieved by a decision of the State Building Code Appeals Board may appeal to Superior Court in accordance with G.L. c.30A, §14 within 30 days of receipt of this decision.

A complete administrative record is on file at the office of the Board of Building Regulations and Standards.

A true copy attest, dated: May 19, 2010



Patricia Barry, Clerk